

**MEDICAL EXAMINING BOARD
REGULAR MEETING
AUGUST 20, 2003**

MEMBERS PRESENT: Drs. Lief Erickson, Alfred Franger, Ronald Grossman, Jon Gudeman, Sidney Johnson, Jack Lockhart, Daniel Miota, and Mary Cook, Virginia Heinemann and Karen Kalishek (via telephone)

MEMBERS EXCUSED: Drs. Sandra Mahkorn, Ian Munro, Bhupinder Saini

STAFF PRESENT: Tom Ryan, Bureau Director; Wayne Austin, Legal Counsel; Pamela Meicher, Program Assistant; and DOE staff for a portion of the meeting

GUESTS: Shelly Raebel, Purdue Pharma; Liz Schumacher, State Medical Society of Wisconsin; Michael N. Hoit, University of Wisconsin

CALL TO ORDER

Chair Sidney Johnson called the meeting to order at 8:00 a.m.

APPROVAL OF AGENDA

Amendments: Review Clearinghouse Comments on Clearinghouse Rule 03-072
Presentation of Motion to Dismiss in the Matter Concerning James Thiel, MD
Proposed Stipulation/Complaint 00 MED 276
Proposed Stipulation 01 MED 320
Death Cases and Three Year Cases Reports
Introduction of Governor Jim Doyle's Appointments: Mary R. Cook, Drs. Jon E. Gudeman and Jack M. Lockhart
Letter from Thomas W. St. John re: Ram Settipalli, MD
2003 Bill (no number assigned), 2003 Senate Bill 226, 2003 Senate Bill 227, Respiratory Care Practitioners Motions, from 07/28/03 examination

MOTION: Ronald Grossman moved, seconded by Alfred Franger, to approve the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES JULY 23, 2003

MOTION: Lief Erickson moved, seconded by Daniel Miota, to approve the minutes of July 23, 2003, as published. Motion carried unanimously.

PROPOSED 2004 BOARD MEETING DATES

MOTION: Lief Erickson moved, seconded by Virginia Heinemann, to approve the 2004 Board meeting dates. Motion carried unanimously.

ADMINISTRATIVE REPORT

Tom Ryan, Bureau Director, gave the Administrative Report. Mr. Ryan advised the Board that the Department will be moving to the front of the building. Improvements will include updated Board rooms and improved work space for staff. Mr. Ryan advised the Board that the Budget Director would report on the Department's budget later in the meeting.

PUBLIC HEARING ON AMENDMENT TO WIS. ADMIN. CODE § 1.06 – ACCEPTANCE OF MEDICAL COUNCIL OF CANADA EXAMINATION SCORES

Legal Counsel Wayne Austin advised the Board that the only changes on the Clearinghouse Comments report were technical.

A Public hearing was held on the amendment to Wis. Admin. Code § 1.06, relating to the acceptance of Medical Council of Canada examination scores

MOTION: Alfred Franger moved, seconded by Daniel Miota, to approve the Clearinghouse Rule 03-072 technical changes and the amended Wis. Admin. Code § 1.06. Motion carried unanimously.

PRESENTATION OF PROPOSED STIPULATIONS

DOE Attorney Michael Berndt presented a proposed stipulation in the matter concerning William B. Hobbins M.D. This matter will be deliberated on in closed session.

DOE Attorney Michael Berndt presented a proposed stipulation in the matter concerning 00 MED 276. This matter will be deliberated on in closed session.

DOE Attorney Michael Berndt presented motions to dismiss two cases based on the death of the respondent in the matter concerning James Richard Thiel, M.D. This matter will be briefly deliberated on in closed session.

REPORT OF SCREENING COMMITTEE

Virginia Heinemann reported the Screening Committee reviewed 26 cases. Five cases were opened, 20 cases were not opened and one case requires more information.

The Screening Panel for September will be Drs. Johnson, Lockhart, and Virginia Heinemann. The Screening Panel for October will be Drs. Gudeman, Erickson, and Virginia Heinemann.

STATE MEDICAL SOCIETY COUNCIL ON MEDIATION AND PEER REVIEW - DISCUSSION

Dr. Johnson summarized the discussion from last month reviewing the various views on what action the Board might take and what the proper function of the SMS Council might be. The Board decided to extend an invitation to Mark Adams, SMS General Counsel, and Dr. Michael Gilman, Council Chair, to return to a future Board meeting to discuss further possible changes in roles. It is the Board's opinion that complaints should come to the Department of Regulation and Licensing before going to the SMS Peer Review Council since the SMS has no legal jurisdiction, no subpoena power, and no due process.

Dr. Lockhart, past president of the SMS, and current Board member, stated that the SMS's goal is to bring professionalism to medical practice. The Board ensures public safety, and the public should be aware that complaints are to be sent to the Department of Regulation and Licensing.

MOTION: Alfred Franger moved, seconded by Lief Erickson, to invite Mark Adams, SMS General Council and Dr. Michael Gilman, SMS Council on Mediation and Peer Review to the 11/19/03 Board meeting. Motion carried unanimously.

FSMB MODEL GUIDELINES FOR THE APPROPRIATE USE OF THE INTERNET IN MEDICAL PRACTICE-DISCUSSION

The Board noted the guidelines and background material presented. The Board may want to consider a future rule to cover the use of internet in medical practice.

REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES

Noted.

DEPARTMENT OF REGULATION AND LICENSING 2003 FEE STUDY – DISCUSSION

Budget Director Elizabeth Reinwald discussed with the Board, the fee study conducted within the Department in April and May.

Ms. Reinwald indicated the Department would like to eventually settle on a fee methodology that offers more assurance of accuracy than the current formula provides. Since the legislature did not accept the recent Department-initiated study, a Legislative Audit Bureau review will be necessary in the near future. The Board indicated its willingness to support adjustment of the fee methodology and raised questions about the lapse to the general fund.

OCTOBER 2003 PAIN MEETINGS – APPOINTMENT OF VOLUNTEERS

Dr. Johnson asked for volunteers for the pain study seminars that will be taken place in October. Dr. Lockhart will attend the La Crosse session 10/07/03; Dr. Gudeman will attend the Waukesha session 10/09/03; Dr. Lief Erickson will check his schedule for the Madison session 10/01/03; and Dr. Johnson will attend the Green Bay session 10/02/03 and the Wausau session 10/08/03.

Dr. Johnson will contact Dr. Saini to inquire into his level of interest in attending any of the sessions.

PERFUSIONIST RULE REVISIONS

Tom Ryan and Wayne Austin will meet Senator Roessler along with the Wisconsin Perfusionist Society to discuss their concerns regarding renewal of a temporary license for up to five years, without having passed the basic science examination.

The Board indicated that a perfusionist must pass the basic science examination within one year. If a candidate fails, the candidate must work under direct supervision of a licensed perfusionist for the duration of the temporary licensure period.

This item will be added to the September agenda.

MOTION: Alfred Franger moved, seconded by Daniel Miota, to allow modification of the current rule regarding temporary licensure of perfusionists. Motion carried unanimously.

INFORMATIONAL ITEMS

Noted.

RECESS TO CLOSED SESSION

MOTION: Ronald Grossman moved, seconded by Virginia Heinemann, to convene to closed session to deliberate on cases following hearing (Wis. Stat. § 19.85 (1) (a)); consider closing disciplinary investigation with administrative warning (Wis. Stat. § (1) (b)), and Wis. Stat. § 440.205; consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)); and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g)). Roll call vote: Mary Cook –yes, Drs. Lief Erickson – yes, Alfred Franger – yes, Ronald Grossman – yes, Jon Gudeman, Sidney Johnson – yes, Jack Lockhart-yes, Daniel Miota – yes, and Virginia Heinemann-yes, and Karen Kalishek-yes. Motion carried unanimously.

Open session recessed at 10:25 a.m.

PRESENTATION OF COMPLAINT IN THE MATTER OF 03 MED 001

DOE Attorney Steve Gloe presented a proposed stipulation in the matter concerning 03 MED 001. This matter will be deliberated on in closed session.

REVIEW OF APPLICATIONS

STEPHEN RIENDL, MD

MOTION: Mary Cook moved, seconded by Ronald Grossman, to approve the application for licensure in the matter of Stephen Riendl, M.D. Virginia Heinemann voted no. Motion carried.

MARK A. GILMAN, RT

MOTION: Alfred Franger moved, seconded by Virginia Heinemann, to deny the application for licensure in the matter of Mark A. Gilman, RT. Motion carried unanimously.

MOTION TO DISMISS TWO DISCIPLINARY ACTIONS – JAMES RICHARD THIEL, M.D.

MOTION: Alfred Franger moved, seconded by Daniel Miota, to dismiss the two disciplinary actions in the matter of James Richard Thiel, M.D. Motion carried unanimously.

REQUEST FOR LICENSE REINSTATEMENT – DONALD A. MILLER, M.D.

MOTION: Daniel Miota moved, seconded by Jack Lockhart, to deny the license reinstatement of Donald A. Miller, M.D. Motion carried unanimously.

COMPLAINT ISSUANCE – DELIBERATION IN THE MATTER OF 03 MED 001

MOTION: Alfred Franger moved, seconded by Daniel Miota, in favor of probable cause to believe that the licensee in 03 MED 001 is guilty of unprofessional conduct, that a complaint be issued, and a hearing held. Case Advisor Sidney Johnson abstained. Motion carried.

MARK BENSON, M.D. - APPEARANCE AND REQUEST FOR REINSTATEMENT

MOTION: Ronald Grossman moved, seconded by Alfred Franger, to approve reinstatement of a limited license in the matter of Mark Benson, M.D., require that he re-start the five year order, and approve him to apply for DEA registration. Motion carried unanimously by a show of hands.

RAYMOND KOZIOL, M.D. – APPEARANCE AND REQUEST FOR 3-MONTH STAY

MOTION: Ronald Grossman moved, seconded by Alfred Franger, to grant a three month stay of suspension in the matter of Raymond Koziol, M.D. Jon Gudeman abstained. Motion carried.

DAVID DARCY, M.D. – REQUEST FOR 3-MONTH STAY

MOTION: Ronald Grossman moved, seconded by Lief Erickson, to deny a three month stay of suspension in the matter of David Darcy, M.D. Motion carried unanimously.

THEODORE GALVANI, M.D. – REQUEST FOR 3-MONTH STAY

MOTION: Daniel Miota moved, seconded by Alfred Franger, to grant a three month stay of suspension in the matter of Theodore Galvani, M.D. Motion carried unanimously.

ACGME EQUIVALENCY DECISION – MANU RAJ SOOD

MOTION: Ronald Grossman moved, seconded by Alfred Franger, to take no action on the ACGME equivalency decision in the matter of Manu Raj Sood, until further information is received. Patty Darwin will write a letter asking for the required information. Motion carried unanimously.

RECONSIDERATION OF WAIVER OF 7 YEAR RULE REQUEST

JAVIER CARDENAS

MOTION: Virginia Heinemann moved, seconded by Daniel Miota, to deny the reconsideration to waive the 7 year Admin. Code § ME 1.06 (3) in the matter of Javier Cardenas. Hand vote taken with three no votes. Motion carried.

**REQUEST FOR WAIVER OF 7 YEAR RULE –
RAM SETTIPALLI, M.D.**

MOTION: Ronald Grossman moved, seconded by Alfred Franger, to deny a waiver to the 7 year Admin. Code § ME 1.06 (3) (b) in the matter of Ram Settipalli, M.D. Motion carried unanimously.

**REQUEST FOR LICENSURE VIA POST GRADUATE EQUIVALENCY –
ZVI LIDAR. M.D.**

MOTION: Ronald Grossman moved, seconded by Alfred Franger, to grant licensure via post graduate equivalency in the matter of Zvi Lidar, M.D. Hand vote taken with all yes votes. Motion carried unanimously.

PROPOSED STIPULATIONS

WILLIAM HOBBS, M.D.

MOTION: Ronald Grossman moved, seconded by Alfred Franger, to reject the Final Decision, Order and Stipulation in the matter of William Hobbs, M.D., with a recommendation that he have a psychiatric evaluation. Case advisor Sidney Johnson abstained. [Hand vote taken with six yes votes]. Motion carried.

PHILIP D. KONKEL, M.D. – 00 MED 276

MOTION: Alfred Franger moved, seconded by Daniel Miota, to accept the Final Decision, Order and Stipulation in the matter of Philip Konkell, M.D., contingent upon him signing the Order. If the Order is not signed, the Board finds there probable cause to believe that he is guilty of unprofessional conduct and that a complaint will be issued and a hearing held. Case advisor Sidney Johnson abstained. Motion carried.

CASE STATUS REPORT

Case advisors Virginia Heinemann and Dr. Johnson volunteered to meet individually with Sharon Henes after screening next month, to discuss their open cases.

MOTION: Alfred Franger moved, seconded by Jon Gudeman, to close complaint **02 MED 276** for no violation. Motion carried unanimously.

MOTION: Daniel Miota moved, seconded by Jack Lockhart, to close complaint **02 MED 297** for no violation. Motion carried unanimously.

MOTION: Ronald Grossman moved, seconded by Mary Cook, to close complaint **02 MED 001** for no violation. Jack Lockhart recused from the vote. Motion carried.

MOTION: Daniel Miota moved, seconded by Virginia Heinemann, to close complaint **02 MED 029** for no violation. Jack Lockhart abstained from the vote. Motion carried.

- MOTION:** Alfred Franger moved, seconded by Ronald Grossman, to close complaint **02 MED 203** for no violation. Motion carried unanimously.
- MOTION:** Daniel Miota moved, seconded by Alfred Franger, to close complaint **03 MED 012** for prosecutorial discretion (1). Motion carried unanimously.
- MOTION:** Daniel Miota moved, seconded by Alfred Franger, to close complaint **03 MED 013** for prosecutorial discretion (3). Motion carried unanimously.
- MOTION:** Ronald Grossman moved, seconded by Alfred Franger, to close complaints **03 MED 038** and **03 MED 105** for no violation. Motion carried unanimously.
- MOTION:** Ronald Grossman moved, seconded by Jon Gudeman, to close complaint **02 MED 251** for prosecutorial discretion (3). Motion carried unanimously.
- MOTION:** Daniel Miota moved, seconded by Alfred Franger, to close complaints **03 MED 043**, **03 MED 050** and **03 MED 101** for no violation. Motion carried unanimously.
- MOTION:** Lief Erickson moved, seconded by Ronald Grossman, to close complaints **02 MED 454** for no violation. Motion carried unanimously.
- MOTION:** Ronald Grossman moved, seconded by Daniel Miota, to close complaint **03 MED 056** for no violation. Motion carried unanimously.
- MOTION:** Ronald Grossman moved, seconded by Alfred Franger, to close complaint **03 MED 099** for insufficient evidence. Motion carried unanimously.
- MOTION:** Ronald Grossman moved, seconded by Daniel Miota, to close complaint **03 MED 107** for insufficient evidence. Motion carried unanimously.

The Board requested that Dr. Treffert's cases be transferred to Dr. Gudeman.

RATIFYING LICENSES AND CERTIFICATES

- MOTION:** Daniel Miota moved, seconded by Alfred Franger, to ratify the applicants as licensed to practice medicine and surgery in the State of Wisconsin. Motion carried unanimously.
- MOTION:** Daniel Miota moved, seconded by Alfred Franger, to ratify the applicants as licensed to practice as physician assistants in the State of Wisconsin. Motion carried unanimously.

MOTION: Daniel Miota moved, seconded by Alfred Franger, to ratify the applicants as certified as respiratory care practitioners in the State of Wisconsin (Laura S. Giles-Brown, Gary E. Todd and Dennis Iles); and to fail two candidates: Maria Moody and James G. Sokup, on their oral examinations. Motion carried unanimously.

RECONVENE IN OPEN SESSION

MOTION: Alfred Franger moved, seconded by Virginia Heinemann, to reconvene in open session. Motion carried unanimously.

Open session reconvened at 12:20 p.m.

VOTING ON ITEMS CONSIDERED/DELIBERATED ON IN CLOSED SESSION

MOTION: Daniel Miota moved, seconded by Virginia Heinemann, to vote to accept all motions made during closed session. Motion carried unanimously.

MOTION: Virginia Heinemann moved, seconded by Ronald Grossman, to request that plaques be provided to Dr. Treffert and Dr. Olson for their service to the public and Board. Motion carried unanimously.

ADJOURNMENT

MOTION: Alfred Franger moved, seconded by Lief Erickson, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 12:23 p.m.